

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Kenneth Whitehead)
Dist. 11, Map 59, Control Map 59, Parcel 87.00,) Carter County
S.I. 000)
Residential Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$61,700	\$29,800	\$91,500	\$22,875

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 18, 2006 in Elizabethton, Tennessee. In attendance at the hearing were Kenneth Whitehead, the appellant, Carter County Property Assessor Gerald Holly and Ronnie Taylor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an 18.54 acre tract improved with a residence constructed in 1940. Subject property is located at 1140 Highway 321 South in Hampton, Tennessee.

The taxpayer contended that subject property should be valued at \$59,959. In support of this position, the taxpayer essentially attacked the various components of the property record card. With respect to subject dwelling, the taxpayer testified concerning its poor physical condition. The taxpayer asserted that his home has depreciated \$500 per year and should be appraised at \$25,000 by subtracting \$2,500 from the assessor's 2001 reappraisal value of \$27,500. The taxpayer also asserted that the 10 x 16 concrete slab valued at \$131 is not a "patio" as indicated on the property record card.

With respect to subject land, the taxpayer contended that the assessor's appraisals of the improvement site, woodland and pastureland are all excessive. The taxpayer maintained the \$15,200 appraisal of the 8 acres classified as woodland does not reflect that \$5,000 worth of timber was stolen. In addition, the taxpayer asserted that the 10.04 acres classified as pasture experiences a diminution in value due to sinkholes. Finally, the taxpayer argued that the ½ acre classified as a homesite has experienced a \$4,500 loss in value due to the loss of four apple trees and a grapevine. According to the taxpayer, the apple trees were worth \$1,000 each and the grapevine \$500.

The assessor contended that subject property should be valued at \$86,000. In support of this position, the property record card was introduced into evidence. Mr. Holly recommended depreciating the residence an additional 4% due to its physical condition. Mr. Holly maintained that the current appraisal of subject land appeared appropriate.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$86,000 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Carter County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds that the taxpayer introduced insufficient evidence to establish the fair market value of subject property. Given the lack of proof, the administrative judge would normally affirm the current appraisal of subject property based upon the presumption of correctness attaching to the decision of the Carter County Board of Equalization. In this case, however, the administrative judge finds that the assessor's contended value of \$86,000 constitutes the upper limit of value. Absent additional evidence from the taxpayer, the administrative judge must presume that the assessor has adequately accounted for any factors causing a diminution in value.

The administrative judge finds that the taxpayer's proof lacks probative value for a variety of reasons. First, the administrative judge finds that no comparable sales were introduced into evidence and Mr. Whitehead's proposed methodology does not comport with generally accepted appraisal practices. See generally, Appraisal Institute, *The Appraisal of Real Estate* (12th ed. 2001). See also *Devere M. Foxworth* (Polk Co., Tax Year 2001) wherein the Assessment Appeals Commission rejected a similar approach. For ease of reference, the Commission's decision has been appended to this order. Second, the administrative judge finds that timber is exempt pursuant to Tenn. Code Ann. § 67-5-216 and was therefore never even considered in the appraisal of the acreage classified as woodland. Third, the administrative judge finds that the taxpayer introduced no evidence whatsoever to substantiate that his land has been devalued \$4,500 due to the loss of four apple trees and a grapevine. Fourth, the administrative judge finds that the taxpayer's methodology is internally inconsistent. For example, in certain cases Mr. Whitehead

subtracts his contended loss in value from the 2005 appraisal of subject property. In the other case, he subtracts the asserted loss in value from the 2006 appraisal.

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . . was too high. In support of that position, she claimed that. . . the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$61,700	\$24,300	\$86,000	\$21,500


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 26th day of October, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Kenneth Whitehead
Gerald Holly, Assessor of Property

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ASSESSMENT APPEALS COMMISSION

IN RE:	DEVERE M. FOXWORTH)	
	Map 21, Parcel 9.01)	Polk
	Residential Property)	County
	Tax Year 2001)	

FINAL DECISION AND ORDER

Statement of the case

This is an appeal by the taxpayer from the initial decision and order of the administrative judge, who recommended the subject property be assessed as follows:

<u>Parcel</u>	<u>Land Value</u>	<u>Improvement</u>	<u>Total Value</u>	<u>Assessment</u>
9.01	\$30,100	\$78,900	\$109,000	\$27,250

The appeal to the Commission was heard in Knoxville on October 22, 2002 before an administrative judge¹ and Commission members Isenberg (presiding), Ishie, Millsaps, Rochford and Simpson. Mr. Foxworth represented himself, as did the assessor Mr. Randy Yates.

Findings of fact and conclusions of law

The subject property is a residence on 10.14 acres at 144 Finger Board Road in Reliance. Although residential properties are commonly valued using a comparable sales approach, neither the taxpayer nor the assessor introduced sales information before the administrative judge, who instead heard a discussion as to whether data entries in the assessor's computer-assisted appraisal system (CAAS) had resulted in a correct valuation of the property. The judge recommended a reduction in the assessment based on apparent errors in the record regarding the home air conditioning and upper story area. The taxpayer appealed and sought further reductions based on the land value and the portion of value attributed to a porch.

The problem with evaluating a property tax assessment on the basis of the pieces of the assessor's record is at least two-fold. First, the pieces may not compare one to another, i.e., the value attributed by the CAAS system to a typical component may not represent the true contribution of the component as represented in the subject property. Second, the pieces are part of a whole that is merely a computer generated approximation of the legal standard of fair market value. The result for a particular property in the assessor's system may or may not yield fair market value. The appeal process therefore looks to more traditional methods of individual property valuation in order to be sure the legal standard has been met.

¹ An administrative judge other than the judge who rendered the initial decision and order sits with the Commission pursuant to Tenn. Code Ann. §4-5-301 and rules of the Board.

The record before the administrative judge and this Commission contains no traditional indications of value, and we are left with the unreliable alternative of tinkering with the pieces. After viewing pictures of the taxpayer's "unfinished" porch, we might well conclude on the basis of the quality of its construction that this component contributes more to the value of the subject property than the typical *finished* porch contributes to value in the assessor's CAAS system. Further, we are absolutely unconvinced that the taxpayer paid more over five years ago for his land than it was worth, or that its value has remained static while values typical for the area have risen. We will reluctantly leave in place the reductions recommended in the initial decision and order but we are given no basis for any further reductions to this assessment.

ORDER

It is therefore ORDERED, that the initial decision and order of the administrative judge is affirmed and the value of the subject property is determined as follows:

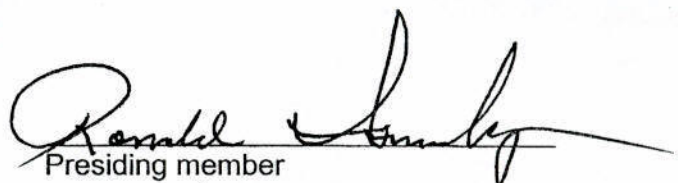
<u>Parcel</u>	<u>Land Value</u>	<u>Improvement</u>	<u>Total Value</u>	<u>Assessment</u>
9.01	\$30,100	\$78,900	\$109,000	\$27,250

This order is subject to:

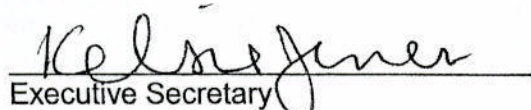
1. Reconsideration by the Commission, in the Commission's discretion.
Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
3. Review by the Chancery Court of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

Requests for stay of effectiveness will not be accepted.

DATED: Mar. 18, 2003


Presiding member

ATTEST:


Executive Secretary

cc: Mr. Devere M. Foxworth
Mr. Randy Yates, Assessor of Property